

REMARKS

1 The Examiner rejected claims 1, 2, 3, 5, 8 and 9 under 35 U.S.C. § 102(b) as
being anticipated by Bingham (3,866,945). The applicant respectfully disagrees. For a
prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the
claimed function must be identically shown in a single reference. Diversitech Corp. v.

5 Century Steps, Inc., 850 F.2d 675 (Fed. Cir. 1988); Verdegaal, Bros. v. Union Oil
Company of California, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) (A
claim is anticipated only if each and every element as set forth in the claim is found,
either expressly or inherently described, in a single prior art reference.)

10 Bingham teaches a velocipede that is specifically comprised of a pair of steering
columns 20 that are pivotally attached to the front end of frame 10. The steering
columns 20 comprise a pair of forks 22, to which a pair of wheels 30 are rotatably
coupled. As the handlebars 26 are moved from side to side during operation, the
15 pivotal connection between the steering columns 20 and the frame 10 permits the
wheels 30 (and hence their axes of rotation) to turn away from a generally perpendicular
orientation with respect to the long axes of the frame 10. Accordingly, the axes of
rotation for each of the forward wheels 30 in Bingham are not maintained in a
20 perpendicular orientation to the long axis of the frames 10 as the velocipede is
operated, especially in a turn.

25 A limitation, within claim 1 of the present application, states that the first and
second frames maintain the axes of rotation of the forward wheels in a generally
perpendicular orientation with respect to the long axis of the frames while the

1 velocipede is operated. Bingham fails to teach any such structural relationships, as the
Bingham velocipede requires the wheels' axes of rotation to move with respect to the
long axes of the frames during operation. Accordingly, Bingham fails to identically show
every element claimed within claim 1. However, in an effort to make the language of
5 claim 1 more clear, the applicant has amended claim 1 to state, "said first and second
frames maintaining the axes of rotation of said first and second forward wheels in a
fixed generally perpendicular orientation with respect to the long axes of said first and
second frames while the velocipede is operated throughout a turn." The Examiner is
respectfully requested to reconsider the aforementioned rejection and allow claim 1 as
10 amended.

15 Claim 2 depends from claim 1 and is believed to be allowable for at least the
reasons set forth hereinabove with respect to claim 1. Furthermore, claim 2 includes
the limitation of a single elongated handlebar coupled to the forward end portions of
said first and second frames. Bingham clearly discloses a pair of handlebars 26, not a
single elongated handlebar. The Bingham handlebars are operatively coupled with one
another via a linkage 52. However, they are not disclosed or otherwise taught as being
capable of operation as a single elongated handlebar. Likewise, claim 3 depends from
claim 2 and is believed to be allowable for at least the reasons set forth hereinabove
20 with respect to claims 1 and 2. More particularly however, claim 3 includes the
limitation that the single elongated handlebar is coupled to the forward end portions of
the first and second frames in a fixed, generally perpendicular orientation to the long
axes of said first and second frames. This is clearly not the case in Bingham. The
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1 Bingham handlebars 26 must be allowed to rotate with respect to the long axes of the
frames 10 in order for the Bingham device to operate. Accordingly, claim 3 is believed
2 to be allowable.

5 Claims 8 and 9 are method claims that both depend from claim 1 and are
believed to be allowable for at least the reasons set forth with respect to claim 1
hereinabove. Moreover, claims 8 and 9 describe methods of operating the velocipede
described in claim 1 to produce generally right-arching and left-arching movements,
respectively. Nowhere within Bingham is such an operation described. Due to the
orientation of the four wheels, the steering mechanisms and their physical relationships
10 with one another, it is likely that the Bingham device is incapable of being operated as
suggested by the Examiner. Accordingly, without sufficient disclosure of such operation
within the reference, the rejection to claims 8 and 9 are believed to be improper.

15 The Examiner has rejected claim 6 under 35 U.S.C. § 103(a) as being
unpatentable over Bingham, further in view of Cogliano (3,608,917). Specifically, the
Examiner states that it would have been obvious to one of ordinary skill in the art to
include the smaller rear wheel to larger front wheel orientation of Cogliano with the
Bingham velocipede. Claim 6 depends from claim 1. Accordingly, claim 6 is believed to
be allowable for at least the reasons set forth hereinabove with respect to claim 1.
20 Moreover, it is not believed that the Bingham velocipede could be modified in the
manner suggested. The Cogliano reference teaches that the struts, back forks, support
bar and tube must all be modified in order to make the smaller wheel assembly work
within Cogliano. The Bingham reference discloses a carriage section 12 to which its
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1 rearward wheels are coupled. There is no teaching within either reference of how to
incorporate smaller wheels into the Bingham structure so that the structure would be
operational. To be sure, the Examiner's statement that such an arrangement would
"provide decreased weight for the vehicle without detriment to proper orientation, thus
improving performance" cannot be understood. Smaller rear wheels in the Bingham
5 design would completely distort its operation. Accordingly, claim 6 is believed to be
allowable.

10 The Examiner has rejected claims 7, 10, 11 and 12 under 35 U.S.C. § 103(a) as
being unpatentable over Bingham in further view of Chartrand (6,022,036). Claims 7,
15 10, 11 and 12 each ultimately depend from claim 1. Accordingly, claims 7, 10, 11 and
12 are believed to be allowable for at least the reasons set forth hereinabove with
respect to claim 1. Moreover, claims 10 and 11 are further comprised of limitations
relating to the actuation of a braking means on one side of the velocipede while the rider
on the opposite side of the velocipede continues to pedal in a forward direction, causing
the velocipede to move in an arcing direction toward the operator who is actuating the
20 braking means. Nowhere within Chartrand is such a manner of operation described.
Moreover, due to the independent steering, wheel arrangement, and frame linkage, it is
believed that such claimed operation is not possible in a device configured according to
the combined teachings of Bingham and Chartrand. Accordingly, claims 7, 10, 11 and
25 12 are believed to be allowable in view of the prior art.

The Examiner found that claims 4 and 13-17 would be allowable if rewritten in
independent form to include all of the limitations of the base claim and any intervening

claims. The applicant has canceled claim 4 and rewritten the same as new claim 18,
1 which includes all of the limitations found within original claims 1 and 4. The applicant
has also canceled claim 13 and rewritten the same as new claim 19, which includes all
of the limitations found within original claims 1, 2, 3 and 13. Claims 14, 15 and 16,
5 which originally depended from claim 4, have been amended to depend from new claim
18. Accordingly, new claims 18 and 19, as well as claims 14-17, are believed to be
allowable.

The Examiner is respectfully requested to reconsider the foregoing rejections
and allow claims 1-3, 5-12 and 14-19.

10 No fees or extensions of time are believed to be due in connection with this
amendment; however, consider this a request for any extension inadvertently omitted,
and charge any additional fees to Deposit Account No. 502093.

15 Respectfully submitted,



SHANE M. NIEBERGALL
Registration No. 44,974
THOMTE, MAZOUR & NIEBERGALL
Attorneys of Record

20 2120 South 72nd Street, Suite 1111
Omaha, NE 68124
(402) 392-2280 – rlt

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CERTIFICATE OF MAILING

I hereby certify that the original of this AMENDMENT for DAVID HARRINGTON,
Serial No. 10/661,733, was mailed by first class mail, postage prepaid, to Mail Stop
5 Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on
this 13th day of August, 2004.

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SHANE M. NIEBERGALL

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